MAYOR AND CITY COUNCIL OF BALTIMORE	*	IN THE
	*	CIRCUIT COURT
Plaintiff,		
v.	*	FOR BALTIMORE CITY
BP P.L.C., *et al.*	*	Case No. 24-C-18-004219
Defendants.	*	

* * * * * * * * * * * * *

DEFENDANTS' JOINT MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION AND REQUEST FOR HEARING

Defendants BP p.l.c. (#1), BP America Inc. (#2), Chevron Corporation (#7), Chevron U.S.A. Inc. (#8), Exxon Mobil Corp. (#9), ExxonMobil Oil Corp. (#10), Royal Dutch Shell, plc (#11), Shell Oil Company (#12), CITGO Petroleum Corp. (#13), ConocoPhillips (#14), ConocoPhillips Company (#15), Phillips 66 (#17), Phillips 66 Company (#18), Marathon Petroleum Corporation (#21), Speedway LLC (#22), Hess Corp. (#23), Marathon Oil Company (#19), Marathon Oil Corporation (#20), CNX Resources Corp. (#24), CONSOL Energy Inc. (#25), and CONSOL Marine Terminals LLC (#26),[1] by their undersigned attorneys and pursuant to Maryland Rule 2-322(a), collectively move this Court to dismiss Plaintiff's Complaint for lack of personal jurisdiction. The grounds and authorities in support of this Motion are set forth more fully in the accompanying Memorandum of Law.[2] A proposed Order is attached.

[1] Only the Defendants listed above join this Motion and seek dismissal of Plaintiff's claims for lack of personal jurisdiction.

[2] CNX Resources Corporation, CONSOL Energy Inc., CONSOL Marine Terminals LLC, Marathon Oil Corporation, and Marathon Oil Company also submit supplemental memoranda with additional grounds and authorities.

REQUEST FOR HEARING

Pursuant to Maryland Rule 2-311(f), the moving Defendants respectfully request a hearing on all issues raised in this Motion and the accompanying Memorandum of Law.

Dated: February 7, 2020

Respectfully submitted,

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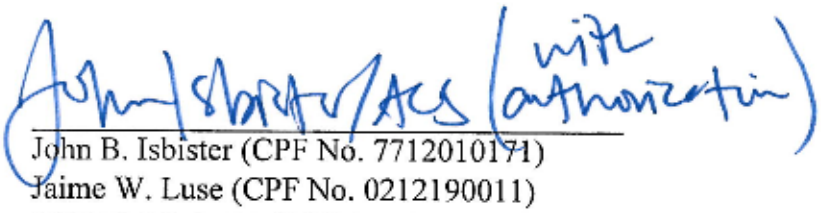

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MAYOR AND CITY COUNCIL OF BALTIMORE	*	IN THE
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* * * * * * * * * * * * *

JOINT MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' JOINT MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION

Defendants BP p.l.c. (#1), BP America Inc. (#2), Chevron Corporation (#7), Chevron U.S.A. Inc. (#8), Exxon Mobil Corp. (#9), ExxonMobil Oil Corp. (#10), Royal Dutch Shell, plc (#11), Shell Oil Company (#12), CITGO Petroleum Corp. (#13), ConocoPhillips (#14), ConocoPhillips Company (#15), Phillips 66 (#17), Phillips 66 Company (#18), Marathon Petroleum Corporation (#21), Speedway LLC (#22), Hess Corp. (#23), Marathon Oil Company (#19), Marathon Oil Corporation (#20), CNX Resources Corp. (#24), CONSOL Energy Inc. (#25), and CONSOL Marine Terminals LLC (#26) (collectively, the "Defendants"),[1] by their undersigned attorneys and pursuant to Maryland Rule 2-322(a), hereby file this Joint Memorandum of Law in support of their joint motion to dismiss for lack of personal jurisdiction. As set forth herein, this Court does not have personal jurisdiction over these out-of-state Defendants and, as such, Plaintiff's claims against these Defendants should be dismissed with prejudice in their entirety.

[1] The majority of Defendants (21 of 26) join the Motion. The five Defendants that do not join either are headquartered in Maryland or have not been served. For ease of reference, the term "Defendants" is used throughout this Motion to refer to all Defendants, even though five of them have not joined this Motion.

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I. INTRODUCTION

Plaintiff, the Mayor and City Council of Baltimore, seeks to hold these 21 out-of-state Defendants liable, in tort, for all injuries it allegedly has sustained or will sustain as a result of global climate change. According to Plaintiff, Maryland law permits it to obtain damages (compensatory and punitive) and equitable relief from this small group of defendants for harms resulting from nearly two centuries of society's decisions about energy consumption and climatic events around the world. The Complaint has many flaws, including those addressed in Defendants' Joint Motion to Dismiss for Failure to State a Claim upon Which Relief Can Be Granted. This motion focuses on an additional defect of Plaintiff's Complaint: it was filed in a forum where these Defendants are not subject to personal jurisdiction.

General jurisdiction—jurisdiction over a defendant for any and all claims, regardless of a claim's relationship to the forum—is lacking here because none of these Defendants is incorporated or headquartered in Maryland, and thus none of them is "at home" in the forum. *See Daimler AG v. Bauman*, 571 U.S. 117, 127 (2014); *see also* Md. Code Ann., Cts. & Jud. Proc. §§ 6-102.

Specific jurisdiction—jurisdiction over claims arising from a defendant's forum contacts—is also lacking here because Plaintiff cannot demonstrate either: (1) that its alleged injuries "arise out of" the limited alleged contacts of Defendants with Maryland or, (2) that exercising jurisdiction here would be reasonable as a matter of due process, both of which are required. *Bristol-Myers Squibb Co. v. Super. Ct. of Cal.*, 137 S. Ct. 1773, 1780 (2017).

First, based on Plaintiff's own allegations, its claims do not "arise out of" Defendants' alleged contacts with Maryland. *Id.* To the contrary, the Complaint expressly attributes Plaintiff's injuries to "*global* greenhouse gas pollution" from *worldwide* combustion of fossil fuels produced and sold by Defendants, as well as countless other sources. Compl. ¶ 1 (emphases added); *see also id.* ¶¶ 2, 18, 94. Plaintiff alleges that Defendants' products—when ultimately processed and/or combusted by energy users around the world—collectively contributed to "approximately 15 percent of *global* fossil fuel product-related CO_2 between 1965 and 2015." *Id.* ¶ 94 (emphasis

added). Notably, however, Plaintiff does not even attempt to quantify the minuscule percentage of total emissions purportedly resulting from Defendants' alleged Maryland contacts.

Trying to overcome this fatal defect, Plaintiff claims that its injuries stem from an alleged misinformation campaign, *see, e.g., id.* ¶ 10, but it neither alleges that this "campaign" took place in Maryland, nor does it allege facts that, if true, would show Maryland-directed activity caused Plaintiff's alleged injuries from global climate change. In fact, Plaintiff does not even generally allege that its harms arise from in-state activities. Plaintiff has thus failed to satisfy its burden of showing that its claims would not have occurred "but-for" Defendants' forum contacts. To exercise specific jurisdiction under these circumstances would violate well-settled Supreme Court precedent that precludes nonresident corporations like Defendants from being haled into court to defend against claims that relate to *all* of their business activities wherever they conduct *any* business activities.

The only court to have addressed these issues in the climate change context dismissed for lack of personal jurisdiction nearly identical claims to those presented here against several out-of-state energy producers, all of which are defendants here. *See City of Oakland v. BP p.l.c.*, No. C 17-06011 WHA, No. C 17-06012, 2018 WL 3609055 (N.D. Cal. July 27, 2018), *appeal docketed*, No. 18-16663 (9th Cir. Sept. 4, 2018). The court there recognized that plaintiffs' claims of injury from global climate change did not arise out of the defendants' conduct in California because it was "manifest" that "whatever sales or events occurred in California were causally insignificant in the context of the worldwide conduct leading to the international problem of global warming." *Id.* at *3. The same common-sense conclusion applies here. *Id.* at *3-4.

Second, the Court should independently decline to exercise specific personal jurisdiction over Defendants because doing so would be unreasonable under the Due Process Clause. *See Stisser v. SP Bancorp, Inc.*, 234 Md. App. 593, 617 (2017) (exercise of personal jurisdictional must "comport with fair play and substantial justice so as to be constitutionally reasonable") (internal quotation marks omitted). Litigating this case in Maryland would impermissibly require nonresident Defendants to submit to the "coercive power" of an out-of-state tribunal with respect

to conduct unconnected with the forum, leaving their national and even worldwide conduct subject to likely conflicting State rules. *Bristol-Myers Squibb*, 137 S. Ct. at 1780. Proceeding in this Court would not further "the interstate judicial system's interest in obtaining the most efficient resolution of controversies" because Plaintiff's claims implicate global conduct and are not localized to Maryland. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292 (1980); *see also McGann v. Wilson*, 117 Md. App. 595, 607 (1997) (finding no personal jurisdiction where conduct complained of took place out-of-state); *City of Oakland*, 2018 WL 3609055, at *3 (finding no personal jurisdiction where plaintiffs' did not establish a "causal chain sufficiently connecting plaintiffs' harm to defendants' [in-state] contacts"). And it would threaten the "interest of the several States in furthering fundamental substantive social policies" because, among other things, many States promote the very energy production that Plaintiff seeks to penalize. *World-Wide Volkswagen*, 444 U.S. at 292; *see also McGann*, 117 Md. App. at 607 ("A fairness analysis involves the following relevant factors: the burden on the defendant; the interest of the forum state; the plaintiff's interest in obtaining relief; the interstate judicial interests in obtaining the most efficient resolution of the controversy; and the shared interest of the several states in furthering fundamental social policies.").

Because the factual allegations of Plaintiff's Complaint do not provide a basis for exercising personal jurisdiction that comports with the Due Process Clause and no amendment can remedy the inherent flaws in Plaintiff's jurisdictional theory, the Court should dismiss all claims against Defendants with prejudice.[2]

[2] This joint Motion argues that the broad assertion of personal jurisdiction by Plaintiff fails on grounds common to all these Defendants. Pursuant to the parties' joint stipulation entered by the Court on January 24, 2020 (Dkt. No. 28/3), Defendants CNX Resources Corporation, CONSOL Energy Inc., CONSOL Marine Terminals LLC, Marathon Oil Corporation, and Marathon Oil Company join this brief but have also filed separate briefs to address company-specific allegations. Individual defendants may have additional defenses to Plaintiff's claims based on personal jurisdiction and the merits, and joinder in this Motion does not waive any of them.

II. BACKGROUND

Plaintiff's Complaint alleges that there has been a substantial "increase in global greenhouse gas pollution and a concordant increase in the concentration of greenhouse gases, particularly carbon dioxide ('CO_2') and methane, in the Earth's atmosphere." Compl. ¶ 1. (footnote omitted). This increase in global greenhouse gas emissions—resulting from the independent activities of countless individuals, businesses, and governments around the world to purchase, resell, refine, transport, and ultimately combust products produced by the global energy industry, including some of the Defendants, as well as nonindustrial sources Plaintiff ignores—has, according to Plaintiff, helped alter the atmospheric composition, causing the atmosphere to trap heat and increase global temperature. *Id.* ¶¶ 1, 36–45. Plaintiff alleges that the increase in global temperature has contributed to melting polar ice caps, rising global sea levels, and changing weather patterns. *Id.* ¶¶ 1, 46–85. Plaintiff contends that it has suffered injury from this sea level rise, as well as from other alleged effects of climate change. *Id.* ¶¶ 3, 8, 9–11. The Complaint asserts claims against Defendants for public and private nuisance, negligent and strict liability failure to warn, negligent and strict liability design defect, trespass, and violations of Maryland's Consumer Protection Act. *Id.* ¶¶ 218–98.

Although the Complaint contains extensive allegations about the various global causes of climate change, *id.* ¶¶ 39–45, the alleged global effects of climate change, *id.* ¶¶ 46–90, Defendants' alleged contribution to climate change, *id.* ¶¶ 91–190, and Baltimore's alleged vulnerability to climate change, *id.* ¶¶ 191–217, it does not allege (nor could it) that activity by Defendants *in Maryland* caused Plaintiff's injuries. Instead, Plaintiff asserts that Defendants collectively, through their *worldwide* operations and those of their predecessors, subsidiaries and affiliates, extracted, produced, and sold fossil fuel materials that, when combusted by consumers between 1965 and 2015, comprised "approximately 15 percent of global fossil fuel product-related CO_2." *Id.* ¶ 94; *see also id.* ¶ 20(b) (noting BP production in Trinidad, India, and the Gulf of Mexico); *id.* ¶ 28(b) (noting Hess production in Denmark, Equatorial Guinea, Malaysia, Thailand, and Norway); *id.* ¶ 29(f) (CONSOL production in Appalachia). Plaintiff then makes conclusory,

boilerplate assertions with respect to each alleged "family" of corporations that "[a] substantial portion of [its] fossil fuel products are or have been extracted, refined, transported, traded, distributed, marketed, promoted, manufactured, sold, *and/or* consumed in Maryland, from which [it] derives and has derived substantial revenue." *Id.* ¶¶ 20(g), 21(c), 22(g), 23(g), 24(g), 25(e), 26(i), 27(h), 28(e), 29(f) (emphasis added).[3]

The Complaint's few non-conclusory allegations are even narrower. Plaintiff alleges that some Defendants owned or operated storage or distribution facilities or refineries in Maryland. *See id.* ¶¶ 20(g), 22(g), 23(g), 24(e), 25(e), 29(f). It also asserts that certain Defendants have marketed fossil fuel products in Maryland through branded service stations, *see id.* ¶¶ 20(g), 21(c), 22(g), 23(g), 24(e), 25(e), 26(i), 27(h), 28(e), and that some Defendants maintained websites that allow individuals to locate branded service stations in Maryland, *see id.* ¶ 23(g). But Plaintiff does not allege—nor could one reasonably infer—that these Maryland activities caused global climate change, much less that they are a but-for cause of Plaintiff's alleged injuries.

III. LEGAL STANDARD

A court may exercise personal jurisdiction only when doing so: (1) is authorized by the State's long-arm statute; and (2) comports with the due process requirements of the Fourteenth Amendment. *Beyond Sys., Inc. v. Realtime Gaming Holding Co.*, 388 Md. 1, 14–15 (2005). Maryland courts have "consistently held that the reach of the long-arm statute is coextensive with the limits of personal jurisdiction delineated under the due process clause of the Federal

[3] The Complaint improperly conflates the activities of Defendants with the activities of their separately organized predecessors, subsidiaries, and affiliates. There is no factual basis alleged in the Complaint for imputing to any Defendant the alleged jurisdictional contacts of any other entity. And Defendants deny that their subsidiaries' fossil-fuel operations can properly be imputed to them for jurisdictional purposes. Nevertheless, solely for purposes of this joint motion, Defendants assume *arguendo* Plaintiff's (erroneous) imputation of the alleged forum-related conduct of each Defendant's direct and indirect subsidiaries and affiliates throughout history. Even with this assumption, Plaintiff's allegations are an insufficient basis on which to predicate the exercise of personal jurisdiction. Defendants reserve all rights to challenge Plaintiff's invalid imputation theory and incorrect allegations about corporate relationships for any other purpose or proceeding. *See City of Oakland*, 2018 WL 3609055, at *3 ("Defendants do not concede that these activities are attributable to them . . . but argue that plaintiffs still fail to demonstrate specific jurisdiction even assuming [that the] forum contacts can be imputed.").

Constitution." *Id.* at 22. Accordingly, the "statutory inquiry merges with [the] constitutional examination." *Id.* "Because the limits of Maryland's statutory authorization for the exercise of personal jurisdiction are conterminous with the limits of the Due Process Clause, the statutory inquiry necessarily merges with the constitutional inquiry, and the two inquiries essentially become one." *Stover v. O'Connell Ass., Inc.*, 84 F.3d 132, 135–136 (4th Cir. 1996).

In applying the Due Process Clause, the U.S. Supreme Court has recognized two types of personal jurisdiction: general and specific. *Bristol-Myers Squibb*, 137 S. Ct. at 1779–80. General jurisdiction allows a court to adjudicate any claim against a defendant, regardless of the connection between the claim and the forum, so long as the defendant is "at home" in that forum. *Id.* Specific jurisdiction allows a court to adjudicate only a limited set of claims: those that arise out of the defendant's contacts with the forum. *Id.* These jurisdictional restrictions "are more than a guarantee of immunity from inconvenient or distant litigation. They are a consequence of territorial limits on the power of the respective States," and a State's exercise of sovereign power "implie[s] a limitation on the sovereignty" of other States and even foreign nations. *Id.* at 1780 (alteration in original); *see also Hollingsworth & Vose Co. v. Connor*, 136 Md. App. 91, 106 (2000) ("'The Due Process Clause of the Fourteenth Amendment limits the power of a state court to exert personal jurisdiction over a nonresident defendant."). "[E]ven if the defendant would suffer minimal or no inconvenience from being forced to litigate before the tribunals of another State; even if the forum State has a strong interest in applying its law to the controversy; even if the forum State is the most convenient location for litigation, the Due Process Clause, acting as an instrument of interstate federalism, may sometimes act to divest the State of its power to render a valid judgment." *Bristol-Myers Squibb*, 137 S. Ct. at 1780–81 (alteration in original) (quoting *World-Wide Volkswagen*, 444 U.S. at 294).

The plaintiff bears the burden of establishing that jurisdiction is proper, *Pinner v. Pinner*, 240 Md. App. 90, 103 (2019), and must make a *prima facie* showing of jurisdictional facts to withstand a motion to dismiss. *Beyond Sys.*, 388 Md. at 5. In evaluating whether the plaintiff has met this burden, the court may not take as true mere conclusory assertions of minimum forum

contacts unsupported by "specific factual allegations." *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 351 F. Supp. 2d 334, 354 (D. Md. 2004).[4]

IV. ARGUMENT

Plaintiff has not alleged facts to support the exercise of personal jurisdiction over Defendants. There is no general jurisdiction because none of the Defendants is "at home" in Maryland. Nor is there specific jurisdiction because the Complaint avers that Plaintiff's alleged injuries arise out of *worldwide* conduct of countless actors, not Defendants' alleged contacts with Maryland, and because exercising jurisdiction would be constitutionally unreasonable.

A. Defendants Are Not Subject to General Jurisdiction in Maryland

Because none of the Defendants is incorporated or headquartered in Maryland, they are not "at home" in Maryland, and thus they are not subject to general personal jurisdiction in this forum. Under the Due Process Clause, a court may exercise general jurisdiction over a corporation only when the corporation's contacts with the forum are so "continuous and systematic" that it is "at home" in the forum. *Daimler*, 571 U.S. at 127. As the Court explained in *Daimler*, the place of incorporation and the principal place of business are the "paradigm" forums where a corporation is "at home." *Id.* at 137. Here, Plaintiff cannot show that Defendants are "at home" in Maryland because Plaintiff concedes that Defendants are incorporated and headquartered in other States and foreign countries. *See* Compl. ¶¶ 20(a), 20(d), 22(a), 22(e), 23(a), 23(d), 24(a), 24(d), 25(a), 26(a), 26(d), 26(f), 26(g), 27(a), 27(b), 27(c), 27(f), 28(a), 29(a) 29(b), 29(e).

Only in "an exceptional case" would a corporation's contacts be "so substantial and of such a nature as to render the corporation at home" somewhere other than its State of incorporation and principal place of business. *Daimler*, 571 U.S. at 139 n.19; *see id.* at 129–30 (discussing *Perkins*

[4] Maryland's appellate courts regularly look to federal court decisions on personal jurisdiction as persuasive authority. *See, e.g.*, *CSR, Ltd. v. Taylor*, 411 Md. 457, 483-84 (2009); *Beyond Sys.*, 388 Md. at 14–15.

v. Benguet Consol. Mining Co., 342 U.S. 437 (1952), where the forum was "the corporation's principal, if temporary, place of business"). Regularly conducting business, even extensive business, in a forum does not render an out-of-state defendant "at home" in the forum. *See Daimler*, 571 U.S. at 123, 136 (rejecting general jurisdiction in California even though "California sales account[ed] for 2.4% of Daimler's worldwide sales"); *BNSF Ry. Co. v. Tyrrell*, 137 S. Ct. 1549, 1559 (2017) (rejecting general jurisdiction in Montana, even though defendant maintained "over 2,000 miles of railroad track and more than 2,000 employees" in the forum); *Grabowski v. Northrop Grumman Sys. Corp.*, No. GLR-16-3492, 2017 WL 3190647, at *3 (D. Md. June 30, 2017) (holding that "general jurisdiction analysis does not focus solely on the magnitude of the defendant's in-state contacts" and finding no jurisdiction even though corporation maintained "sector headquarters [and] 11,000 employees in Maryland").[5] As the Supreme Court explained, it "would be 'unacceptably grasping' to approve the exercise of general jurisdiction wherever a corporation 'engages in a substantial, continuous, and systematic course of business.'" *Daimler*, 571 U.S. at 138; *Barnett v. Surefire Med., Inc.*, No. JFM-17-1332, 2017 WL 4279497, at *2 (D. Md. Sept. 25, 2017) (same).

The Maryland contacts alleged in Plaintiff's Complaint here are far from the "exceptional case" where a business is at home somewhere other than the State in which it is incorporated or headquartered. *See Daimler*, 571 U.S. at 129–30, 139 n.19; *Grabowski*, 2017 WL 3190647, at *3;

[5] *See also Barnett*, 2017 WL 4279497, at *1-2 (rejecting general jurisdiction even though defendant was alleged to "regularly solicit[] and conduct[] business in Maryland" and its Maryland sales accounted for between two and four percent of its nationwide sales); *Lewis v. Park Plus, Inc.*, No. 8:13-cv-01709, 2013 WL 6713224, at *4 (D. Md. Dec. 18, 2013) (rejecting general jurisdiction even though defendant installed and operated a parking facility in Maryland).

Cutcher v. Midland Funding, LLC, No. ELH-13-3733, 2014 WL 2109916, at *6 (D. Md. May 19, 2014). The Due Process Clause thus prohibits the exercise of general jurisdiction over Defendants.

B. Defendants Are Not Subject to Specific Jurisdiction

Because none of the Defendants is subject to general jurisdiction in Maryland, Plaintiff may proceed against Defendants in this forum only if it can establish specific jurisdiction over each Defendant, which it has not done, and cannot do. Specific jurisdiction exists only if: (1) the defendant purposefully availed itself of the privilege of conducting activities in the State; (2) the plaintiff's claims arise from those activities directed at the State; ***and*** (3) the exercise of personal jurisdiction would be constitutionally reasonable. *Beyond Sys.*, 388 Md. at 26. Here, Plaintiff fails to allege a *prima facie* case of specific jurisdiction because it fails at least the second and third prongs of the test: the claims asserted in the Complaint do not arise from any alleged contacts with Maryland, and exercising personal jurisdiction in this case would be constitutionally unreasonable.[6]

1. Plaintiff's Claims Do Not Arise Out of Defendants' Alleged Contacts With Maryland

Plaintiff has failed to establish specific jurisdiction over these Defendants because the Complaint does not allege claims that arise from Defendants' alleged forum contacts. To support specific jurisdiction, a plaintiff's claims must "aris[e] out of or relat[e] to" the defendant's contacts with the forum. *Bristol-Myers Squibb*, 137 S. Ct. at 1780 (alteration in original). "When there is no such connection to the forum state, specific jurisdiction is lacking regardless of the extent of a

[6] Because this Motion can be resolved based solely on Plaintiff's failure to establish that its injuries arise from Defendants' alleged contacts with Maryland or that exercising personal jurisdiction over Defendants would be reasonable, the Court need not consider the third Due Process requirement: whether Defendants have purposefully availed themselves of the privilege of conducting business in Maryland. However, Defendants do not concede that the purposeful availment prong is satisfied here, and reserve all rights to challenge purposeful availment at a later stage of this proceeding.

defendant's unconnected activities in the state." *Id.* at 1781 (alteration omitted); *see also Stisser v. SP Bancorp, Inc.*, 234 Md. App. 593, 638 (2017) ("Maryland's specific jurisdiction over [a nonresident entity] is necessarily limited to . . . causes of action arising from [the nonresident's] forum contacts."); *Armstrong v. Nat'l Shipping Co. of Saudi Arabia*, No. ELH-13-03702, 2015 WL 751344, at *8 (D. Md. Feb. 20, 2015) ("[D]efendant's contacts with the forum state must form the basis of the suit."). In short, Plaintiff must establish that "the cause of action arises from, or is directly related to, the defendant's contacts with the forum state." *CSR, Ltd.*, 411 Md. at 477.

This causal connection exists only if a defendant's forum conduct is at least the "but-for" cause of plaintiff's alleged injury. *MaryCLE, LLC v. First Choice Internet, Inc.*, 166 Md. App. 481, 505 (2006) (applying a "but-for" test); *see also Dev. Design Group v. Deller*, 2012 WL 1098603, at *22 (D. Md. Mar. 20, 2012) (noting that the Fourth Circuit appears to have adopted the "'but-for' causation test"). If plaintiff's injury would have occurred regardless of defendant's forum contacts, specific personal jurisdiction is lacking. *See Consulting Eng'rs Corp. v. Geometric Ltd.*, 561 F.3d 273, 278–279 (4th Cir. 2009) (holding that specific jurisdiction "requires that the defendant's contacts with the forum state form the basis of the suit"); *Yates v. Motivation Indus. Equip. Ltd.*, 38 F. App'x 174, 177 (4th Cir. 2002) (finding no personal jurisdiction where decedent's death did not arise from defendant's contacts with forum).

In *Osiris Therapeutics, Inc. v. MiMedx Grp., Inc.*, for example, plaintiff medical products company sued defendant competitor for tortious interference after defendant acquired plaintiff's distributor and halted distribution of plaintiff's products. No. CCB-18-950, 2018 WL 6573099, at *4 (D. Md. Dec. 13, 2018). Plaintiff argued that it had been injured in Maryland because defendant manufactured in Maryland a component used in a competing product and the distributor sold that competing product in violation of its distribution agreement with plaintiff. *Id.* at *1. The court

held that the manufacture of a component of the competing product in Maryland could not support specific jurisdiction because "[plaintiff's] claims do not arise out of this contact." *Id.* at *4. Specifically, the court found that Plaintiff did not allege that the conduct underlying its claims "occurred in Maryland." *Id.*; *see also Jafarzadeh v. Feisee*, 139 Md. App. 333, 338 (2001) (finding no specific jurisdiction where "appellee's contacts with the State of Maryland [were] minimal in nature.").[7]

Here, Plaintiff has not pleaded—and could not plead, given the chain of causation—facts to satisfy the requirement that its claims arise out of Defendants' contacts with Maryland. Climate change is a worldwide phenomenon, and Plaintiff's claims "depend on a global complex of geophysical cause and effect involving all nations of the planet." *City of Oakland*, 2018 WL 3609055, at *3. Even putting aside the *de minimis* contribution that Defendants' forum-related activities may have on climate change under Plaintiff's theory, the alleged effects of climate change in Maryland simply cannot be linked to contacts with Maryland. As other courts have

[7] Although the constitutional and statutory limitations are coextensive in Maryland, the State long-arm statute limits specific jurisdiction to claims "arising from" in-state conduct. This limitation requires a plaintiff's claims to be "directly related" to a defendant's in-state activities, *Camelback Ski Corp. v. Behning*, 312 Md. 330, 338 (1988), and therefore courts have found a lack of personal jurisdiction even where the "but-for" standard may have been satisfied. *See, e.g., Stisser*, 234 Md. App. 593, 640 (2017) (finding no personal jurisdiction even though filing of articles of merger in Maryland was necessary for a fraudulent merger claim because Maryland action was "only tangentially related" to claim); *Bond v. Messerman*, 162 Md. App. 93, 116 (2005), *aff'd*, 391 Md. 706 (2006) (rejecting personal jurisdiction in malpractice action against Ohio lawyer because injury did not "aris[e] from" referral of lawyer in Maryland even though claim would not have arisen but-for the referral); *Marriott Corp. v. Vill. Realty & Inv. Corp.*, 58 Md. App. 145, 156 (1984) (finding no personal jurisdiction because claim for commission did not "aris[e] from" broker's travel to meet with plaintiff in Maryland, even though trip was "one link in a chain of events leading to [broker's] claim for commissions"). Similarly, many federal courts of appeals properly require more than a but-for connection between the plaintiff's claims and the defendant's conduct in order to establish specific jurisdiction. *See, e.g., Beydoun v. Wataniya Restaurants Holding, Q.S.C.*, 768 F.3d 499, 507–08 (6th Cir. 2014); *uBID, Inc. v. GoDaddy Group, Inc.*, 623 F.3d 421, 430 (7th Cir. 2010); *O'Connor v. Sandy Lane Hotel Co.*, 496 F.3d 312, 323 (3d Cir. 2007); *Nowak v. Tak How Investments, Ltd.*, 94 F.3d 708, 714–16 (1st Cir. 1996).

recognized, the "undifferentiated nature of greenhouse gas emissions from all global sources and their worldwide accumulation over long periods of time" mean that "there is no realistic possibility of tracing any particular alleged effect of climate change to any particular emissions by any specific person, entity, [or] group at any particular point in time." *Native Vill. of Kivalina v. ExxonMobil Corp.*, 663 F. Supp. 2d 863, 880 (N.D. Cal. 2009), *aff'd*, 696 F.3d 849 (9th Cir. 2012). In other words, "it is not plausible to state which emissions—emitted by whom and at what time in the last several centuries *and at what place in the world*—'caused' Plaintiff['s] alleged global warming related injuries." *Id.* at 881 (emphasis added).

For this reason, a federal court dismissed nearly identical claims for lack of personal jurisdiction in *City of Oakland*. There, as here, government entities sued energy companies, all of which are also Defendants here, seeking to hold them liable under California tort law for the alleged local effects of global climate change. 2018 WL 3609055, at *1–2. Applying a due process analysis, the court explained that "[i]t is manifest that global warming would have continued in the absence of all California-related activities of defendants." *Id.* at *3. The court thus concluded plaintiffs had "failed to adequately link each defendants' alleged California activities to plaintiffs' harm." *Id.* Notably, the court reached this conclusion without the need for any fact-finding and despite the fact that—unlike here—plaintiffs had "list[ed] significant fossil-fuel-related activities that defendants ha[d] allegedly conducted in California." *Id.* What was "[l]acking," the court explained, was "a causal chain sufficiently connecting plaintiffs' harm and defendants' California activities," because plaintiffs could not "sufficiently explain how these 'slices' of global-warming-inducing conduct causally relate to the worldwide activities alleged." *Id.* at *3, *4. The same was true of the foreign defendants' even broader contacts "with the nation as a whole." *Id.* at *4 (applying Fed. R. Civ. P. 4(k)(2)).

That reasoning applies squarely here. Plaintiff's complaint asserts that its alleged injuries occurred or will occur only as a result of total, cumulative, worldwide greenhouse gas emissions from global combustion of fossil fuels produced and sold by Defendants, as well as countless other sources. Compl. ¶ 1; *see also id.* ¶¶ 7, 18, 93, 94. Indeed, Plaintiff concedes that Defendants' worldwide operations supply only a fraction of global fossil fuel demand. *Id.* ¶¶ 7, 94. Plaintiff also concedes—as it must—that there are countless contributors to greenhouse gas emissions and climate change worldwide. *See, e.g., id.* ¶¶ 41–44, 235. Given the innumerable other contributors and Defendants' operations outside of Maryland, Plaintiff has not credibly alleged, and cannot credibly allege, that its injuries would not have occurred but-for Defendants' alleged contacts with Maryland.

The only non-boilerplate assertions Plaintiff makes about contacts with Maryland involve assertions that certain Defendants: (i) maintained storage or distribution facilities or refineries in Maryland, *see id.* ¶¶ 20(g), 22(g), 23(g), 24(e), 25(e), 29(f); (ii) marketed gasoline through branded service stations in Maryland, *see id.* ¶¶ 20(g), 21(c), 22(g), 23(g), 24(e), 25(e), 26(i), 27(h), 28(e); and (iii) operated websites that allowed individuals to locate branded service stations in Maryland, *see id.* ¶ 23(g). But Plaintiff has not articulated *any* theory by which these contacts with Maryland could be a but-for cause of Plaintiff's alleged injuries, which it must do to survive a motion to dismiss. To the contrary, the sum of those activities is "causally insignificant in the context of the worldwide conduct leading to the international problem of global warming," and, thus, they cannot support specific personal jurisdiction here. *City of Oakland*, 2018 WL 3609055, at *3. Similarly, Plaintiff cannot rely on its conclusory assertion that a "substantial portion" of each Defendant's fossil fuel products have been "extracted, refined, transported, traded, distributed, marketed, promoted, manufactured, sold, *and/or* consumed in Maryland." *Id.* ¶¶ 20(g), 21(c), 22(g), 23(g),

24(g), 25(e), 26(i), 27(h), 28(e), 29(f) (emphasis added). That assertion, expressly phrased in the alternative, does not even allege that any Defendant actually extracted fossil fuels in Maryland. Regardless, in assessing motions to dismiss, "[t]he Court does not . . . accept conclusory allegations and assertions containing insufficient facts as true." *Balfour Beatty Infrastructure, Inc. v. Rummel Klepper & Kahl, LLP*, 451 Md. 600, 609 (2017); *see also Masselli & Lane, PC v. Miller & Schuh, PA*, 215 F.3d 1320 (4th Cir. 2000) (stating that the court does not "credit conclusory allegations or draw farfetched inferences"). Moreover, publicly available, judicially noticeable government data confirm that there has been virtually no fossil fuel production within the State of Maryland since at least 1960. *See* Ex. 1, Req. for Judicial Notice in Supp. of Defs.' Joint Mot. to Dismiss for Lack of Personal Jurisdiction (showing Maryland's limited fossil fuel production since 1960); *id.* at Ex. 2 (showing that Maryland accounted for no oil production and substantially less than one percent of coal and natural gas production in the United States in 2017); *id.* at Ex. 3 (showing that Maryland accounted for 0.3% of total energy production in the United States in 2017).

Thus, even without Defendants' alleged forum contacts in Maryland, Plaintiff's alleged injuries would be exactly the same. The alleged Maryland contacts are inconsequential in the worldwide causal chain Plaintiff alleges will lead to the harm it may suffer. Thus, the claims do not and cannot arise out of the alleged forum contacts because the claims and alleged injuries would not change even if there were no forum contacts.[8]

It is no answer for Plaintiff to assert that its claims arise from Defendants' Maryland contacts because the "effects" of Defendants' out-of-state activities are being felt, or will be felt, in Maryland. As the Supreme Court has explained, "'foreseeability' alone is not a sufficient

[8] For example, if Maryland had never had any fossil fuel activity—no production of oil and gas, no usage of oil and gas products, no emissions from combustion of those products in Maryland—Plaintiff's claims as alleged would not change at all.

benchmark for personal jurisdiction under the Due Process Clause," even when it "was 'foreseeable' that the [product] would cause injury in" the forum state. *World-Wide Volkswagen*, 444 U.S. at 295; *see also Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985) (The "foreseeability of causing *injury* in another State . . . is not a sufficient benchmark for exercising personal jurisdiction."); *Walden*, 571 U.S. at 290 ("[M]ere injury to a forum resident" is insufficient.); *Hollingsworth & Vose*, 136 Md. App. at 108 ("'[F]oreseeability' alone has never been a sufficient benchmark for personal jurisdiction under the Due Process Clause.").

Plaintiff has not alleged that any Defendant's conduct was directed at Maryland in a way different from other forums. Exercising personal jurisdiction over Defendants in this case would mean that any company whose activities anywhere in the world allegedly contribute to climate change would conceivably be subject to personal jurisdiction in every forum in the United States—if not the world—to answer for the alleged effects of climate change. That result would deprive Defendants of the "fair warning" that "a particular activity may subject [them] to the jurisdiction of a foreign sovereign," and thus would not comport with core principles of due process. *Burger King*, 471 U.S. at 472 (alteration in original). Indeed, the Complaint's attempt to link Plaintiff's alleged injuries to the historical global activities of all of Defendants' subsidiaries and predecessors relies entirely on jurisdictionally irrelevant activities. According to the Complaint, which cites a paper by Richard Heede, the combustion of *all* of the fossil fuels derived from materials that *all* Defendants (and their predecessors, subsidiaries, and affiliates) collectively have allegedly extracted from the ground *anywhere in the world* accounts for "approximately 15% [of] global fossil fuel product-related CO_2" between 1965 and 2015.[9] This figure is not evidence of any

[9] *See* Compl. ¶¶ 91 n.100, 94 (citing Richard Heede, *Tracing Anthropogenic Carbon Dioxide and Methane Emissions to Fossil Fuel and Cement Producers, 1854-2010*, 122 Climatic Change 229, 232–33 (2014)); *cf. id.* ¶ 7. If this case were to proceed past the pleading stage (which it should not),

jurisdictionally significant causal contribution from any suit-related Maryland conduct of any Defendant because the emissions and climatic impacts the paper would attribute to Defendants are not based on Maryland conduct, but improperly aggregate worldwide activities mostly having no connection to Maryland. In fact, because there has been virtually no fossil fuel production in Maryland since at least 1960, any methodology that attempts to attribute emissions to a producer based upon extraction would attribute almost no global greenhouse gas emissions to Defendants' Maryland activities over the past 60 years. *See* Exs. 1, 2 & 3, Req. for Judicial Notice in Supp. of Defs.' Joint Mot. to Dismiss for Lack of Personal Jurisdiction.

Plaintiff's recent litigation positions confirm that their claims do not arise from any in-state conduct. Defendants removed this case to federal district court on the ground, among others, that the Outer Continental Shelf Lands Act ("OCSLA") creates federal jurisdiction over actions "arising out of, or in connection with" certain operations on the Outer Continental Shelf ("OCS"). *See* 43 U.S.C. § 1349(b)(1). In opposing removal, Plaintiff argued that the statute imposed a "but-for" causation test—the same test that applies to the personal jurisdiction inquiry—and that test could not be satisfied where only "some portion" of its injuries allegedly resulted from OCS operations. *See* Pl.'s Reply in Supp. of Its Mot. to Remand to State Court at 32–33, *Mayor and City Council of Baltimore v. BP P.L.C.*, No. 1:18-cv-02357 (ELH), ECF No. 133, Attached at Ex.

Defendants would challenge the inputs, analyses, and conclusions in this paper on multiple grounds. For purposes of this motion, however, Defendants note that this paper starts from the incorrect premise that *producers* of fossil fuels are responsible for the emissions caused by the ultimate end user. Moreover, Plaintiff cannot establish that even if Defendants had ceased all activities at issue, other fossil fuel companies would not have increased production in order to compensate for decreased supply. Plaintiff entirely ignores the other fossil-fuel producers that—according to the Heede paper—are responsible for 85% of greenhouse gases emitted from industrial sources between 1965 and 2015. The paper also fails to account for human greenhouse-gas emissions from sources other than fossil-fuel products, which Plaintiff admits contribute to climate change. *See, e.g.*, Compl. ¶¶ 43, 44.

1. Critically, even though more than 15 percent of domestic oil production occurs on the OCS,[10] Plaintiff argued that this production was insufficient to support but-for causation and that its injuries would have occurred regardless of that production. *Id.* If Plaintiff's claims do not arise from Defendants' substantial fossil-fuel production on the OCS, they certainly do not arise from Defendants' *de minimis* (or non-existent) production in Maryland. And that means the but-for test for personal jurisdiction cannot be satisfied.

The relationship between Plaintiff's claims and this forum is even more attenuated with respect to Plaintiff's allegations of misrepresentations about climate change or wrongful marketing (including alleged failures to warn). Compl. ¶¶ 144–170. The Complaint contains no *factual* allegations about misrepresentations or wrongful promotion *in Maryland*, much less any attempt to quantify how any such promotion might have caused global climate change. Indeed, the Complaint does not identify a single allegedly misleading publication or report that targeted Maryland—nor does it allege that anyone in Maryland ever read such a publication. Plaintiff's claims, therefore, could not have arisen from any Maryland-directed misrepresentations.

More fundamentally, Plaintiff has not even generally asserted (let alone alleged facts showing) that Defendants' alleged misrepresentations or wrongful marketing were but-for causes of the Plaintiff's alleged climate change injuries, much less how any Maryland-directed portion could have been. Nor has Plaintiff attempted to articulate any theory of causation that would

[10] *See* Ex. 4, Req. for Judicial Notice in Supp. of Defs.' Joint Mot. to Dismiss for Lack of Personal Jurisdiction, Statement of Abigail Ross Hopper, Director, Bureau of Ocean Energy Management, Before the House Committee on Natural Resources (Mar. 2, 2016), https://www.boem.gov/FY2017-Budget-Testimony-03-01-2016 (testifying that the Department of Interior "administers more than 5,000 active oil and gas leases on nearly 27 million OCS acres. In FY 2015, production from these leases generated $4.4 billion in leasing revenue … [and] provided more than 550 million barrels of oil and 1.35 trillion cubic feet of natural gas, accounting for about sixteen percent of the Nation's oil production and about five percent of domestic natural gas production."); *see also* Defs.' Opp. to Pl.'s Mot. to Remand at 49-50, *Mayor and City Council of Baltimore v. BP P.L.C.*, No. 1:18-cv-02357(ELH), ECF No. 124.

account for the substantial *publicly available* information about the causes of climate change that Plaintiff itself points to as purported evidence of public knowledge. *See, e.g.*, *id.* ¶¶ 103–104; *see also Juliana v. United States*, ___ F.3d ___, 2020 WL 254149, at *4 (9th Cir. Jan. 17, 2020) ("[T]he federal government has long understood the risks of fossil fuel use and increasing carbon dioxide emissions. As early as 1965, the Johnson Administration cautioned that fossil fuel emissions threatened significant changes to climate, global temperatures, sea levels, and other stratospheric properties."). Indeed, Plaintiff itself—like countless other energy users—continues to combust fossil fuels releasing greenhouse gases, despite its allegations here that it is well established that doing so contributes to climate change. *See, e.g.*, Compl. ¶¶ 39–42.

Having failed to allege that its claims arise out of Defendants' alleged contacts with Maryland, Plaintiff has not established a *prima facie* case of specific personal jurisdiction, and its claims should be dismissed.

2. Exercising Personal Jurisdiction Over Defendants Would Be Unreasonable

Because Plaintiff has failed to allege that its claims arise from Defendants' contacts with Maryland, the Court need not reach the reasonableness inquiry. *CSR, Ltd.*, 411 Md. at 493. Nonetheless, the unreasonableness of exercising jurisdiction here is an additional reason to dismiss the Complaint. *Stisser*, 234 Md. App. at 435 n.20 (holding that the reasonableness inquiry "only bolster[ed] our analysis under Maryland's long-arm statute against exercising personal jurisdiction").

In determining whether jurisdiction is reasonable under the Due Process Clause, courts consider "the burden on the defendant, the forum state's interest in adjudicating the dispute, the plaintiff's interest in obtaining convenient and effective relief, the interstate judicial system's interest in obtaining the most efficient resolution of controversies, and the shared interest of the

several States in furthering fundamental substantive social policies." *Id.* at 617 (quoting *Burger King*, 471 U.S. at 477). The "primary concern" in assessing the reasonableness of personal jurisdiction is "the burden" on "the defendant." This is not just the "burden" of litigating in multiple, inconvenient and distant forums, but the burden of "submitting to the coercive power" of a court in light of the limits of interstate federalism on a court's ability to exercise jurisdiction. *Bristol-Myers Squibb*, 137 S. Ct. at 1780. "[R]estrictions on personal jurisdiction 'are more than a guarantee of immunity from inconvenient or distant litigation. They are a consequence of territorial limitations on the power of the respective States.'" *Id.* (quoting *Hanson v. Denckla*, 357 U.S. 235, 251 (1958)). One State's exercise of sovereign power "implie[s] a limitation on the sovereignty" of other States and even foreign nations, and in some cases that concern "may be decisive." *Id.* (alteration in original). Indeed, the Supreme Court has admonished courts to take into consideration the interests of the "several States," and emphasized that "[g]reat care and reserve should be exercised when extending our notions of personal jurisdiction into the international field." *Asahi Metal Indus. Co. v. Super. Ct. of Cal., Solano Cty.*, 480 U.S. 102, 115 (1987). A majority of the relevant considerations weigh decisively against the exercise of personal jurisdiction here.

First, exercising specific jurisdiction over these out-of-state Defendants for global climate change-related claims would expand the sovereignty of this Court well beyond the limits of due process, burdening these Defendants and interfering with the power of each Defendant's home jurisdiction over its corporate citizens. In fact, it would resurrect the loose approaches to personal jurisdiction that the Supreme Court rejected in *Daimler* and *Bristol-Meyers Squibb* and would serve to make energy companies of any size operating anywhere in the world subject to climate change suits in every forum in the country. Well-settled principles of due process do not permit

such a result. As the Supreme Court explained in *Asahi*, a products liability case involving sales and distribution of tires and components by out-of-state defendants into California:

> [t]he procedural and substantive interests of other nations in a state court's assertion of jurisdiction over an alien defendant will differ from case to case. In every case, however, those interests, as well as the Federal interest in Government's foreign relations policies, will be best served by a careful inquiry into the reasonableness of the assertion of jurisdiction in the particular case, and an unwillingness to find the serious burdens on an alien defendant outweighed by minimal interests on the part of the plaintiff or the forum State.

Id. This problem is particularly pronounced with respect to foreign Defendants.[11] Under Plaintiff's theory, *any* foreign entity could be forced to appear before *any* court in the United States based on its alleged contribution to global climate change, even if it has no activities within that jurisdiction. If other nations adopted a similar rule, American companies could be sued on climate change-related claims in courts *around the world*. And Plaintiff has not demonstrated that this violation of sovereignty is necessary for it to test the merits of its claims.[12]

Litigating Plaintiff's claims in Maryland also would burden Defendants—which are headquartered in other States and multiple foreign countries—because none of their primary witnesses reside in Maryland and nearly all of the relevant evidence is located elsewhere. This burden is magnified by the substantial number of Defendants named in this action and the potential number of witnesses involved, especially considering the Complaint's focus on Defendants' global activities over many decades.

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[11] As Plaintiff acknowledges, Defendant BP P.L.C. is registered in England and Wales with its principal place of business in London, England, Compl. ¶ 20(a); and Defendant Royal Dutch Shell plc is incorporated under the laws of England and Wales and headquartered in The Hague, Netherlands, *id.* ¶ 24(a).

[12] Plaintiff is free, of course, to file suit against Defendants where each is subject to general jurisdiction. *See Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011).

Second, this litigation offends the principles underlying the interstate judicial system because Plaintiff seeks to use Maryland tort law to regulate Defendants' nationwide (indeed, worldwide) activities, including fossil fuel production—an activity heavily regulated by the federal government, all 50 States, and every other country in the world in which these corporate entities operate. Because there is nothing forum-specific about the activities that Plaintiff alleges are the basis for its claims against the Defendants, under Plaintiff's theory, personal jurisdiction would exist over *every* Defendant in *every* State—and *every* country. The interests of the "interstate judicial system" would not be served by requiring witnesses and counsel to litigate the same climate change actions in multiple fora simultaneously under different legal rules, especially given the substantial risk of inconsistent decisions.

Third, the "substantive social policies" Plaintiff seeks to advance—curbing energy production and the use of fossil fuels—are not shared by many other States and nations, particularly those whose economies are heavily dependent on energy production. For example, in parallel litigation brought by the City of New York against five of the Defendants here, 15 States—many of them energy producers—filed an *amici curiae* brief arguing that "New York City's effort to use New York's state common law of public nuisance to regulate global climate change presents issues of extraordinary importance to the *Amici* States, for it attempts to extend New York law across not only the United States, but the entire world." Ind. and 14 Other States in Supp. of Defs.-Appellees' Amicus Br. at 1, *City of New York v. BP P.L.C.*, No. 18-2188 (2d Cir. Feb 14, 2019), ECF No. 200. The district court recognized these concerns, observing, in dismissing the complaint, that to hold five international oil and gas companies liable for climate change based on worldwide fossil-fuel production would create "serious foreign policy consequences" and implicate "countless foreign governments and their laws and policies." *City of New York v. BP*

P.L.C., 325 F. Supp. 3d 466, 475–76 (S.D.N.Y. 2018); *see City of Oakland v. BP p.l.c.*, 325 F. Supp. 3d 1017, 1026 (N.D. Cal. 2018) ("[P]laintiffs would have a single judge or jury in California impose an abatement fund as a result of such overseas behavior [*i.e.*, production and sale of fossil fuels worldwide]. Because this relief would effectively allow plaintiffs to govern conduct and control energy policy on foreign soil, we must exercise great caution."), *appeal docketed*, No. 18-16663 (9th Cir. Sept. 4, 2018). Plaintiff's claims here similarly implicate the interests of numerous other States, and this Court cannot reasonably exercise jurisdiction over Defendants.

The remaining factors also do not support the reasonableness of exercising jurisdiction in this case because, as explained in Defendants' Joint Motion to Dismiss for Failure to State a Claim, Plaintiff's claims raise matters of federal policy and foreign affairs that are not suitable for resolution by the judiciary because of the fundamental principle of separation of powers, or at the very least, arise under federal common law.[13]

V. CONCLUSION

For the foregoing reasons, Plaintiff's claims against these out-of-state Defendants should be dismissed in their entirety and with prejudice for lack of personal jurisdiction.

[13] Because the Complaint fails to allege even a colorable basis for personal jurisdiction, even though Defendants, for purposes of this motion, accept the allegations as true, jurisdictional discovery would be inappropriate. *See Beyond Sys.*, 388 Md. at 28–29 (trial court did not abuse discretion in denying plaintiff's request for discovery, including jurisdictional discovery, pending motion to dismiss for lack of personal jurisdiction); *Carefirst of Maryland, Inc. v. Carefirst Pregnancy Centers, Inc.*, 334 F.3d 390, 403 (4th Cir. 2003) (affirming denial of jurisdictional discovery).

Dated: February 7, 2020

Respectfully submitted,

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MAYOR AND CITY COUNCIL OF BALTIMORE	*	IN THE
	*	CIRCUIT COURT
Plaintiff,		
v.	*	FOR BALTIMORE CITY
BP P.L.C., *et al.*	*	Case No. 24-C-18-004219
Defendants.	*	

* * * * * * * * * * * * *

[PROPOSED] ORDER

Upon review and consideration of Defendants' Joint Motion to Dismiss for Lack of Personal Jurisdiction and Request for Hearing, Plaintiff's Opposition thereto, and any further Reply(ies), it is this _____ day of _____, 2020, by the Circuit Court for Baltimore City, hereby

ORDERED, that Defendants' Motion to Dismiss for Lack of Personal Jurisdiction is GRANTED; and it is further

ORDERED, that Plaintiff's Complaint filed July 20, 2018 is DISMISSED WITH PREJUDICE against Defendants Chevron Corporation (#7), Chevron U.S.A. Inc. (#8), BP America, Inc. (#2), BP p.l.c. (#1), Exxon Mobil Corporation (#9), ExxonMobil Oil Corporation (#10), Shell Oil Company (#12), Royal Dutch Shell, plc (#11), CITGO Petroleum Corporation (#13), ConocoPhillips (#14), ConocoPhillips Company (#15), Phillips 66 (#17), Phillips 66 Company (#18), Marathon Petroleum Corp. (#21), Speedway LLC (#22), Hess Corp. (#23), Marathon Oil Corporation (#20), Marathon Oil Company (#19), CNX Resources Corporation (#24), CONSOL Energy Inc. (#25), and CONSOL Marine Terminals LLC (#26).

_____

JUDGE VIDETTA A. BROWN

cc: All counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of February, 2020, a copy of the foregoing Defendants' Joint Motion to Dismiss for Lack of Personal Jurisdiction and Request for Hearing, Memorandum of Law in support thereof, and proposed Order were served via email and first-class mail, postage-prepaid on the following:

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